

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CHRISTOPHER M. STONE,)	
Plaintiff,)	
)	
vs.)	Civil Action No. 14-730
)	Judge Mark R. Hornak/
)	Chief Magistrate Judge
FREDDY NUNCZ, Hearing Examiner,)	Lisa Pupo Lenihan
)	
)	
)	
Defendant.)	

ORDER

AND NOW, this 12th day of September, 2014, after the Plaintiff, Christopher M. Stone, filed an action in the above-captioned case and was granted leave to proceed *in forma pauperis*, and after a Report and Recommendation was filed by the United States Magistrate Judge recommending dismissal with prejudice for failure to state a claim and giving Plaintiff until August 8, 2014 to file written objections thereto, and no objections having been filed, and upon independent review of the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court as supplemented by this Order¹,

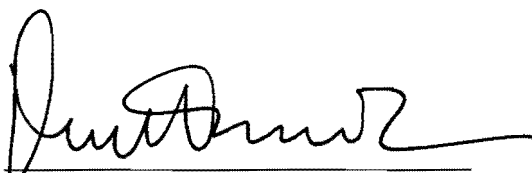
¹ For the reasons set forth in the Report and Recommendation, the Complaint fails to reach the pleading bar now applicable under the *Twombly/Iqbal* or "*Twigbal*" standard. See *RHJ Med. Ctr., Inc. v. City of DuBois*, 754 F. Supp. 2d 723, 730-31 (W.D. Pa. 2010). As did the Chief Magistrate Judge, the Court has carefully considered whether under Circuit law, it is appropriate to grant leave to amend. The Court concludes that it is not. The Plaintiff's entire case is premised on what he alleged was a flawed disciplinary hearing process. He did not contend in his Complaint that the conditions under which he served his challenged disciplinary time were so atypical that they represented a

IT IS HEREBY ORDERED that pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), and for the reasons set forth in the Magistrate Judge's Report and Recommendation, this case is dismissed with prejudice for failure to state a claim.

IT IS FURTHER ORDERED that the Motion to Take Part in Mediation (ECF No. 9) is DENIED as moot.

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case CLOSED.

AND IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if any party wishes to appeal from this Order a notice of appeal, as provided in Fed. R. App. P. 3, must be filed with the Clerk of Court, United States District Court, at 700 Grant Street, Room 3110, Pittsburgh, PA 15219, within thirty (30) days.



MARK R. HORNAK
United States District Judge

cc: Honorable Lisa Pupo Lenihan
Chief United States Magistrate Judge

Christopher M. Stone
JV 0262
SCI Benner Township
301 Institution Drive
Bellefonte, PA 16823

dramatic and hardship-inducing departure from the conditions under which he was confined while not on disciplinary status. *See Mitchell v. Horn*, 318 F. 3d 523, 531 (3d Cir. 2003). Further, the Plaintiff was given an opportunity to file Objections to the Report and Recommendation which noted that component to the "liberty interest" analysis, and did not do so. Thus, this case presents a materially different scenario than the one presented in *Cooper v. Diggs*, 423 Fed. App'x. 162, 165 (3d Cir. 2011)(motion for reconsideration and principal appellate brief fairly read as raising an issue as to the substantially atypical conditions of disciplinary confinement).